

Historic, archived document

Do not assume content reflects current scientific knowledge, policies, or practices.

federal register

FRIDAY, OCTOBER 22, 1971
WASHINGTON, D.C.

Volume 36 ■ Number 205

PART II



DEPARTMENT OF AGRICULTURE

Agricultural Research Service

■
Laboratory Animal Welfare

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Parts 1, 2, 3]

LABORATORY ANIMAL WELFARE

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of August 24, 1966 (Public Law 89-544), as amended by the Animal Welfare Act of 1970 (Public Law 91-579), (7 U.S.C. 2131 et seq.) the Agricultural Research Service is considering revising Parts 1 and 2; amending §§ 3.10, 3.34, 3.58, and 3.84 of Part 3; and adding a new Subpart E to Part 3 of Subchapter A, Chapter I, Title 9, Code of Federal Regulations.

Statement of considerations. The Act of August 24, 1966 (Public Law 89-544), was amended by the Animal Welfare Act of 1970 (Public Law 91-579). Such revision of the previous legislation necessitates or makes appropriate certain adjustments in, and additions to, the regulations and standards governing the humane care and handling of certain animals. This proposed revision of the regulations and standards also reflects certain other changes which are proposed to update, clarify, or editorially correct present wording in the interest of normal progress.

The specific amendments would be as follows:

1. Parts 1 and 2 would be amended to read as follows:

PART 1—DEFINITION OF TERMS

§ 1.1 Definitions.

For the purposes of this subchapter, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Act of August 24, 1966 (Public Law 89-544), commonly known as the Laboratory Animal Welfare Act, as amended by the Act of December 24, 1970 (Public Law 91-579), the Animal Welfare Act of 1970.

(b) "Department" means the U.S. Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the U.S. Department of Agriculture.

(d) "Division" means the Animal Health Division, Agricultural Research Service, of the Department.

(e) "Director" means the Director of the Division or any other official of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(f) "Veterinarian In Charge" means a veterinarian of the Division who is assigned by the Director to supervise and perform the official work of the Division in a given State and who reports directly to the Director. As used in Part 2 of this subchapter, the Veterinarian In Charge shall be deemed to be the one in charge of the official work of the Division in the

State in which the dealer, exhibitor, research facility, or operator of an auction sale has his principal place of business.¹

(g) "Division representative" means any Inspector or other person employed full time by the Division who is responsible for the performance of the function involved.

(h) "State" means a State, the District of Columbia, Commonwealth of Puerto Rico, or a territory or possession of the United States.

(i) "Person" means any individual partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(j) "Dog" means any live or dead dog (*Canis familiaris*).

(k) "Cat" means any live or dead cat (*Felis catus*).

(l) "Animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or any warmblooded animal, domesticated or raised in captivity and which normally can be found in the wild state, and is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet. Such term excludes birds, aquatic animals, rats and mice, and horses and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry, used or intended use for improving animal nutrition, breeding, management or production efficiency, or for improving the quality of food or fiber.

(m) "Farm animal" means any warmblooded animal (other than dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, or rabbit), normally raised on farms in the United States and used or intended for use as food or fiber.

(n) "Wild state" means living in its original, natural condition; not domesticated.

(o) "Nonhuman primate" means any nonhuman member of the highest order of mammals including prosimians, monkeys, and apes.

(p) "Commerce" means trade, traffic, commerce, transportation among the several States, or between any State, territory, possession, or the District of Columbia, or the Commonwealth of Puerto Rico, and any place outside thereof; or between points within the same State, territory, or possession, or the District of Columbia, or the Commonwealth of Puerto Rico, but through any place outside thereof; or within any territory, possession, or the District of Columbia.

(q) "Affecting commerce" means in commerce, or burdening or obstructing or substantially affecting commerce or the free flow of commerce, or having led or tending to lead to the inhumane care of animals used or intended for use for purposes of research, experimentation, exhibition, or held for sale as pets, by

burdening or obstructing or substantially affecting commerce or the free flow of commerce.

(r) "Research facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals affecting commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided, however*, That a "research facility" shall not include any such school, institution, organization, or person that does not use or intend to use live dogs or cats and which is exempted by the Administrator, upon application to him in specific cases and upon his determination that such exemption does not vitiate the purpose of the Act, except that the Administrator will not exempt any school, institution, organization, or person that uses substantial numbers of live animals—the principal function of which school, institution, organization, or person is biomedical research or testing.

(s) "Dealer" means any person who for compensation or profit delivers for transportation or transports, except as a common carrier, buys or sells any animals whether alive or dead, affecting commerce for research or teaching purposes, or for exhibition purposes, or for use as pets, but such term excludes any retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer.

(t) "Retail pet store" means any retail outlet where animals are sold only as pets at retail. Those species from the wild state (e.g. lions, tigers, and ocelots) and which as adults in captivity require special conditions to provide safety in handling to either humans or the subject animals, shall not be considered as pet animals.

(u) "Operator of an auction sale" means any person who is engaged in operating an auction at which animals are purchased or sold, affecting commerce.

(v) "Exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation as determined by the Secretary in specific instances, and such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat

¹ The name and address of the Veterinarian In Charge in the State concerned can be obtained by writing to the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782.

² A list of such exempted schools, institutions, organizations, or persons shall be published periodically by the Division in the *Federal Register*. Such lists may also be obtained upon request from the Veterinarian In Charge.

shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences as may be determined by the Secretary in specific instances.

(w) "Licensee" means any person licensed pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(x) "Class 'A' dealer" means a dealer whose business involving animals includes only those animals that he breeds and raises as a closed or stable colony and those animals that he acquires for the sole purpose of maintaining or enhancing his breeding colony.

(y) "Class 'B' dealer" means any dealer who does not meet the definition of a Class "A" dealer.

(z) "Class 'C' licensee" means any exhibitor subject to the licensing requirements.

(aa) "Registrant" means any research facility or exhibitor registered pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(bb) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by dealers, exhibitors, research facilities, and operators of auction sales as set forth in Part 3 of this subchapter.

(cc) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

(dd) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(ee) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health.

(ff) "Ambient temperature" means the temperature surrounding the animal.

(gg) "Euthanasia" means the humane destruction of an animal accomplished by a method which quickly produces a state of unconsciousness followed by death without visible evidence of pain or anxiety.

(hh) "Nonconditioned animals" means animals which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary, to improve their health to make them suitable for research purposes.

(ii) "Dwarf hamster" means any species of hamster, such as the Chinese and Armenian species, whose adult body size is substantially less than that attained by the Syrian or Golden species of hamsters.

(jj) "Handling" means animal contact by a person or persons in the form of petting, feeding, manipulation, crating, transfer, immobilizing, restraining, treating, working, or performing any other activity, as appropriate, with respect to the species involved so as to minimize the injury and anxiety to the animal and associated personnel.

(kk) "Business year" means a 12-month period during which business is conducted, either on a calendar or fiscal year basis.

(ll) "Administrator" means Administrator of the Agricultural Research Service, U.S. Department of Agriculture.

PART 2—REGULATIONS

LICENSING

Sec.	
2.1	Application.
2.2	Acknowledgment of standards.
2.3	Demonstration of compliance with standards.
2.4	Issuance of licenses.
2.5	Duration of license.
2.6	Annual fees and termination.
2.7	Annual report by licensees.
2.8	Notification of change of name, address, control, or ownership of business.
2.9	Officers, agents, and employees of licensees whose licenses have been suspended or revoked.
2.10	Licensees whose licenses have been suspended or revoked.

REGISTRATION

2.25	Requirements and procedures.
2.26	Acknowledgment of standards.
2.27	Notification of change of operation.
2.28	Annual report of research facilities.

IDENTIFICATION OF ANIMALS

2.50	Time and method of identification.
2.51	Form of official tag.
2.52	How to obtain tags.
2.53	Use of tags.
2.54	Lost tags.
2.55	Removal of tag.

RECORDS

2.75	Records, dealers.
2.76	Records, exhibitors.
2.77	Records, research facilities.
2.78	Records, operator of auction sale.
2.79	Records, disposition.

COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

2.100	Compliance with standards.
2.101	Holding period.

MISCELLANEOUS

2.125	Information as to business: furnishing of by dealers, exhibitors, operator of an auction sale, and research facilities.
2.126	Access and inspection of records and property.
2.127	Publication of names of persons subject to the provisions of this subpart.
2.128	Inspection for missing animals.
2.129	Confiscation and destruction of animals.

LICENSING

§ 2.1 Application.

(a) Any person operating or desiring to operate as a dealer, exhibitor, or operator of an auction sale, where any dogs or cats are sold affecting commerce, except persons who are exempted from the licensing requirements under section 3 of the Act, shall apply for a license on a form which will be furnished, upon request, by the Veterinarian in Charge in the State in which such person operates or intends to operate. If such person operates in more than one State, he shall apply in the State in which he has his principal place of business. The com-

pleted application form shall be filed with such Veterinarian in Charge.

(b) (1) Any person who is not a dealer or exhibitor, but who desires to obtain a license, shall follow the requirements for dealers and exhibitors set forth in paragraph (a) of this section and in §§ 2.2 and 2.3, and shall agree in writing, on a form furnished by the Division, to comply with all the requirements of the Act and the provisions of this subchapter.

(2) A license will be issued to any such applicant when the requirements of §§ 2.2 and 2.3 have been met, and when the applicant has submitted to the Veterinarian in Charge a fee in the amount of \$15, by certified check, cashier's check, or money order. In addition to the fee required to be paid upon application for a license, such licensee shall submit to the Veterinarian in Charge a fee in the amount of \$15, by certified check, cashier's check, or money order, on or before each anniversary date of his license.

(3) The failure of any such person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for the suspension or revocation of such license by the Secretary.

§ 2.2 Acknowledgment of standards.

A copy of the applicable standards will be supplied to the applicant with each request for an application for a license, and the applicant shall acknowledge receipt of such standards and agree to comply with them by signing the application form provided for such purpose by the Division.

§ 2.3 Demonstration of compliance with standards.

Each applicant must demonstrate that his promises and any facilities or equipment used in his business comply with the standards set forth in Part 3 of this subchapter. This may be done in any manner which the Director deems adequate to effectuate the purposes of the Act, such as the examination of the applicant's premises, facilities, and equipment by a Division representative or the submission of an affidavit by the applicant to the effect that his premises, facilities, and equipment comply with such standards. Any such affidavit shall be subject to such verification as the Director shall prescribe. Upon request by the Veterinarian in Charge, the applicant must make his premises, facilities, and equipment available at a time or times mutually agreeable to said applicant and the Division for inspection by a Division representative for the purpose of ascertaining compliance with said standards. If the applicant's premises, facilities, or equipment do not meet the requirements of the standards, the applicant will be advised of existing deficiencies and the corrective measures that must be taken and completed before such premises, facilities, and equipment will be in compliance with the standards.

§ 2.4 Issuance of licenses.

Except as otherwise provided in §§ 2.1(b) and 2.10, a license will be issued to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 have been met, when the Secretary has determined that the applicant's premises, facilities, and equipment comply with the standards and when the applicant has submitted to the Veterinarian in Charge the annual fee prescribed in § 2.6 by certified check, cashier's check, or money order.

§ 2.5 Duration of license.

(a) A license issued under this part shall be valid and effective unless:

(1) Said license has been revoked or is suspended pursuant to section 19 of the Act.

(2) Said license is voluntarily terminated upon the request of the licensee in writing to the Veterinarian in Charge.

(b) A license which is invalid under paragraph (a) of this section shall be surrendered to the Veterinarian in Charge in the State where the license was issued.

§ 2.6 Annual fees and termination.

(a) In addition to the fee required to be paid upon application for a license under § 2.4, each licensee shall submit to the Veterinarian in Charge the annual fee prescribed in this section, by certified check, cashier's check, or money order, on or before each anniversary date of his license.

(b) (1) The amount of the annual license fee for a dealer shall be based on the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, or exhibitors, or through an auction sale, by the dealer or applicant during his preceding business year (calendar or fiscal) in the case of a person who operated during such year.

(2) The amount of the annual license fee for an operator of an auction sale shall be that of a Class "B" dealer and shall be based on the total gross amount, expressed in dollars, derived in commissions or fees charged to the public for the sale of animals to research facilities, dealers or exhibitors at the auction sale during the preceding business year.

(3) In the case of an applicant for a license as a dealer or operator of an auction sale who operated at least 6 months of his preceding business year but not the entire year, the annual license fee shall be computed by estimating the yearly volume of business on the basis of the business done during the period of operation.

(4) In the case of an applicant for a license as a dealer or operator of an auction sale who did not operate for at least 6 months during his preceding business year, the annual license fee will be based on the anticipated yearly volume of business to be derived from the sale of animals to research facilities, dealers, exhibitors or through an auction sale.

(5) The amount of the annual fee required to be paid upon application for a license as an exhibitor under § 2.4, shall be based on the number of animals which are held by the applicant for purposes of

exhibition at the time the application is signed and dated. The amount of the annual license fee for an exhibitor to be paid on or before each anniversary date of his license, shall be based on the number of animals which the exhibitor is holding for purposes of exhibition at the time he signs and dates the annual report as required in § 2.7: *Provided, however*, That such report is not signed and dated more than 30 days prior to the anniversary date of the license.

(c) The license fee shall be computed in accordance with the following tables:

TABLE 1. DEALERS AND OPERATORS OF AN AUCTION SALE

Total gross dollar amount		Fee	
Over	But not over	Class A dealer	Class B dealer
\$0.....	\$2,000	\$15	\$15
2,000.....	10,000	25	50
10,000.....	25,000	100	200
25,000.....	50,000	150	300
50,000.....	100,000	200	500
100,000.....		250	750

TABLE 2. EXHIBITORS—CLASS "C" LICENSEE

Number of animals:	Fee
1-10	\$10
11-50	25
51-500	50
501 and up.....	100

(d) If a person meets the licensing requirements for more than one class of license, he shall be required to pay the higher of the fees applicable, but not the sum of such fees, in order to be licensed for multiple types of operations covered by this subchapter.

(e) In any situation in which a licensed dealer or operator of an auction sale shall have demonstrated in writing to the satisfaction of the Secretary that he has good reason to believe that his total gross dollar amount of business for the forthcoming business year will be less than the previous business year, then his estimated gross dollar amount of business shall be used for computing the license fee for the forthcoming business year: *Provided, however*, That if such gross dollar amount for that year does in fact exceed the amount estimated, the difference in amount of the fee paid and that which was due based upon such actual gross dollar amount of business, shall be payable, in addition to the required annual fee for the next subsequent year, on the anniversary date of his license as prescribed in this section.

(f) The failure of any licensee to pay the annual fee prescribed by this section on or before each anniversary date of his license or to file the report provided for in § 2.7 shall constitute grounds for the suspension of such license until the prescribed fee is paid or report is filed pursuant to the regulations in this subchapter.

§ 2.7 Annual report by licensees.

(a) Each year within 30 days prior to the anniversary date of his license, a licensee shall file with the Veterinarian in Charge a report, upon a form which will be furnished to him, upon request, by the Veterinarian in Charge.

(b) A person licensed as a dealer shall set forth in his annual report the gross dollar amount derived from the sale of animals by the licensee to research facilities, dealers, exhibitors, and through an auction sale during the preceding business year, and such other information as may be requested thereon.

(c) A person licensed as an operator of an auction sale shall set forth in his annual report the gross dollar amount derived from commissions or fees charged to the public for the sale of animals to research facilities, dealers, or exhibitors at the auction sale during the preceding business year, and such other information as may be required thereon.

(d) A person licensed as an exhibitor shall set forth in his annual report the number of animals which are held by him for purposes of exhibition at the time he signs and dates the report: *Provided, however*, That such report is not signed and dated more than 30 days prior to the anniversary date of his license.

§ 2.8 Notification of change of name, address, control or ownership of business.

A licensee shall promptly notify the Veterinarian in Charge of any change in the name, address, management or substantial control or ownership of his business or operation within 10 days after making such change.

§ 2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.

Any person who has been or is an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the order of suspension or revocation was based will not be licensed within the period during which the order of suspension or revocation is in effect.

§ 2.10 Licensees whose licenses have been suspended or revoked.

Any person whose license has been suspended for any reason will not again be licensed in his own name or in any other manner within the period during which the order of suspension is in effect, and any person whose license has been revoked shall not be eligible to apply for a new license in his own name or in any other manner for a period of 1 year from the effective date of such revocation. No partnership, firm, corporation or other legal entity in which any such person has a substantial financial interest, will be licensed during such period. After revocation, the revoked license shall be surrendered by the holder of the license upon the request of the Secretary.

REGISTRATION

§ 2.25 Requirements and procedures.

Each research facility and each exhibitor not required to be licensed under section 3 of the Act and the regulations of this subchapter shall register with the Secretary by completing and filing a

properly executed form which will be furnished, upon request, by the Veterinarian in Charge. Such registration form shall be filed with such Veterinarian in Charge. Where a school or department of a university or college uses or intends to use animals for research, tests, or experiments, the university or college rather than the school or department will generally be considered the research facility and be required to register with the Secretary. In any situation in which a school or department of a university or college is a separate legal entity and its operations and administration are independent of those of the university or college, upon a proper showing thereof to the Secretary, the school or department will be registered rather than the university or college. A subsidiary of a business corporation, rather than a parent corporation, will be registered as a research facility or exhibitor unless the subsidiary is under such direct control of the parent corporation that to effectuate the purposes of the Act the Secretary determines that it is necessary that the parent corporation be registered.

§ 2.26 Acknowledgment of standards.

A copy of the applicable standards will be supplied with each registration form, and the registrant shall acknowledge receipt of such standards and agree to comply with them by signing a form provided for such purpose by the Division. Such form shall be filed with the Veterinarian in Charge.

§ 2.27 Notification of change of operation.

A registrant shall promptly notify the Veterinarian in Charge of any change in his name or address or any change in his operations which would affect his status as a research facility or exhibitor within ten days after making such change.

§ 2.28 Annual report of research facilities.

Each research facility shall submit on or before February 1 of each calendar year to the Veterinarian in Charge in the State where registered an annual report signed by a legally responsible official covering the previous calendar year and showing that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during experimentation are being followed by the research facility during actual research or experimentation. Such report shall include:

(a) The location of the facility or facilities where animals were used in actual research or experimentation.

(b) The common names and approximate numbers of animals used;

(c) The number of experiments conducted involving necessary pain or anxiety to the animals without the use of an appropriate anesthetic, analgesic or tranquilizing drug and a brief statement explaining the reasons for the same; and

(d) Certification by the attending veterinarian of the research facility or by an institutional committee of at least three members, one of whom is a Doctor

of Veterinary Medicine, established for the purpose of evaluating the care, treatment and use of all warmblooded animals held or used for research or experimentation, that the type and amount of anesthetic, analgesic, and tranquilizing drugs used on animals during actual research or experimentation was appropriate to relieve all unnecessary pain and anxiety for the subject animals.

IDENTIFICATION OF ANIMALS

§ 2.50 Time and method of identification.

(a) Except as otherwise provided in this section, when a Class "A" dealer sells or otherwise removes dogs or cats from his premises for delivery, affecting commerce, to a research facility or exhibitor or to another dealer, or for sale, affecting commerce, through an auction sale, each such dog or cat shall be identified by an official tag of the type described in § 2.51 affixed to the animal's neck by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats: *Provided, however,* That no official tag need be affixed to any such dog that has been identified by means of a distinctive and legible tattoo marking acceptable to the Director.

(b) Except as otherwise provided in this section, when a Class "B" dealer or exhibitor purchases or otherwise acquires a dog or cat, affecting commerce, he shall immediately affix to such animal's neck an official tag of the type described in § 2.51 by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats, but if the dog or cat is not purchased or acquired, affecting commerce, by said dealer or exhibitor, such animal must be so tagged at the time it is delivered for transportation, transported, or sold, affecting commerce, by said dealer or exhibitor: *Provided, however,* That if such dog or cat is already identified by an official tag which has been applied by another dealer or exhibitor, it is not necessary that any subsequent dealer or exhibitor replace the tag on such animal, but the (Class "B") dealer or exhibitor may replace such previously attached tag with his own official tag, and in which event, the (Class "B") dealer or exhibitor shall correctly list both official tag numbers in his records of purchase which shall be maintained in accordance with §§ 2.75 and 2.77 and the new official tag number shall be used on all records of subsequent sales of such dog or cat: *And provided further,* That no official tag need

¹In general, well fitted collars made of leather or plastic will be acceptable under this provision. The use of certain types of chains presently used by some dealers may also be deemed acceptable. A determination of the acceptability of a material proposed for use as collars from the standpoint of humane considerations will be made by the Division on an individual basis in consultation with the dealer or exhibitor involved. The use of materials such as wide or elastic that might readily cause discomfort or injury to dogs or cats will not be acceptable.

be affixed to any such dog or cat that has been identified by means of a distinctive and permanent tattoo marking approved by the Director.

(c) When any dealer or exhibitor has made a reasonable effort to affix an official tag to an adult cat, as set forth in paragraphs (a) and (b) of this section, and has been unable to do so, or when the cat exhibits extreme distress from the attachment of a collar and tag, the dealer or exhibitor shall attach the collar and tag to the door of the primary enclosure containing the cat and take proper measures to maintain the identity of the cat in relation to the tag. Each primary enclosure shall contain no more than one adult cat without an affixed collar and official tag.

(d) Unweaned puppies or kittens need not be individually identified as required by paragraphs (a) and (b) of this section while they are maintained as a litter with their dam in the same primary enclosure provided she has been so identified.

(e) All live dogs or cats delivered for transportation, transported, purchased, or sold, affecting commerce, by a research facility, shall be identified, at the time of such delivery for transportation, purchase, or sale, by the official tag or tattoo, which was affixed to the animal at the time it was acquired by the research facility, as provided in paragraph (a) of this section, or by a tag, tattoo, or collar, applied to the live dog or cat by the research facility and which individually identifies such dog or cat by description or number.

(f) (1) All animals, except dogs and cats, delivered for transportation, transported, purchased, or sold, affecting commerce, by any dealer or exhibitor shall be identified by the dealer or exhibitor at the time of such delivery for transportation, transportation, purchase, or sale, as provided in this paragraph.

(2) When two or more animals, other than dogs or cats, are confined in a container, they shall be identified by a label attached to the container which shall bear a description of the animals in the container, including the number of animals, species of the animals, age and sex of the animals, any distinctive physical features of the animals, and any identifying marks, tattoos, or tags attached to the animals: *Provided, however,* That if each of the animals in the container is identified by a tag or tattoo applied to the animal by the dealer or exhibitor and which individually identifies such animal by description or number, a label need not be attached to the container in which the animals are confined.

(3) When only one animal, other than a dog or cat, is confined in a container, it shall be identified as provided in subparagraph (2) of this paragraph, or by the dealer or exhibitor marking the container with a painted or stenciled number, which number shall be recorded in the records of the dealer or exhibitor together with a description of the animal, including the species, age and sex of the animal, and any distinctive physical features of the animal.

(4) When any animal, other than a dog or cat, is not confined in a container, it shall be identified on a form² which shall accompany the animal at the time it is delivered for transportation, transported, purchased, or sold, affecting commerce, and shall be kept and maintained by the dealer or exhibitor as part of his records.

§ 2.51 Form of official tag.

The official tag shall be made of a durable alloy such as brass, bronze, or

steel or of a durable plastic. Aluminum of a durable thickness and quality may be used. Such tag shall be circular in shape and not less than 1 1/4 inches in diameter. Each tag shall be embossed or stamped with the letters "USDA," and numbers and letters identifying the State, dealer, and animal, as set forth in Figure 1. Such tags shall be serially numbered and there shall be no duplication of numbers by any one dealer or exhibitor.

Denoting State and dealer or exhibitor respectively -

39-AB

Denoting the animal -

82488

Figure 1 -

USDA

§ 2.52 How to obtain tags.

Dealers or exhibitors may obtain, at their own expense, official tags from commercial tag manufacturers.³ At the time a dealer or exhibitor is issued a license, the Department will assign him dealer or exhibitor identification letters and inform him of the State number to be used on his official tags.

§ 2.53 Use of tags.

Official tags obtained by a dealer or exhibitor shall be applied to dogs or cats in the manner set forth in § 2.50 and in as near consecutive numerical order as possible. No tag number shall be used to identify more than one animal.

§ 2.54 Lost tags.

Each dealer or exhibitor shall be held accountable for all official tags that he acquires. In the event an official tag is lost from the neck of a dog or cat while in the possession of a dealer or exhibitor, a diligent effort shall be made to locate and reapply such tag to the proper animal. If the lost tag is not located, the dealer or exhibitor shall affix another official tag to the animal in the manner prescribed in § 2.50, and make a notation of the tag number on his official records.

§ 2.55 Removal of tag.

(a) When a dog or cat wearing or identified by an official tag arrives at a research facility, such tag shall be removed and retained by the research facility: *Provided, however,* That at the discretion of the research facility such tag may be used to continue the identification of such dog or cat.

(b) If a dealer, exhibitor, or research facility finds it necessary humanely to dispose of a live dog or cat to which is affixed or which is identified by an official tag, or upon the death of such dog or cat

from other causes, the dealer, exhibitor, or research facility shall remove and retain such tag for the required period.

(c) All official tags removed and retained by a dealer, exhibitor, or research facility shall be held until called for by a Division representative or for a period of 1 year.

(d) When official tags are disposed of, they must be disposed of in such a manner to preclude their reuse as animal identification.

RECORDS

§ 2.75 Records, dealers.

(a) In connection with each animal purchased or otherwise acquired, held, transported, or sold or otherwise disposed of, a dealer shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

(1) The names and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The dates of acquisition and disposition;

(3) The description and identification of the animals, including any official tag number or tattoo number as affixed, pursuant to §§ 2.50 and 2.54;

(4) When animals are sold by a dealer, the method of transportation of such animals; and (i) the name of the common carrier or (ii) the license number or other identification of the means of conveyance; and the name and address of the driver of the means of conveyance;

(5) The nature and method of disposition, e.g. sale, death, euthanasia, or donation; and

(b) One copy of ANH Form 18-5, revised, completed as required by this section, shall accompany each shipment of animals acquired by a dealer and one copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of animals sold or otherwise disposed of by a dealer.

§ 2.76 Records, exhibitors.

(a) In connection with each animal purchased or otherwise acquired, held,

transported, or sold or otherwise disposed of, an exhibitor shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division: *Provided, however,* That any exhibitor may transport to a new location for exhibition purposes such animals for which a form has been completed and is being kept by the exhibitor in accordance with this section, without completing a new form.

(1) The name and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The dates of acquisition and disposition;

(3) Description and identification of animals including any official tag number or tattoo number affixed pursuant to §§ 2.50 and 2.54;

(4) When animals are sold by an exhibitor, the method of transportation of such animals; and (i) the name of the common carrier or (ii) the license number or other identification of the means of conveyance; and the name and address of the driver of the means of conveyance;

(5) The nature and method of disposition, e.g., sale, death, euthanasia, or donation.

(b) One copy of ANH Form 18-5, revised, completed as required by this section, shall accompany each shipment of animals acquired by an exhibitor, and one copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of animals sold or otherwise disposed of by the exhibitor.

§ 2.77 Records, research facilities.

(a) In connection with each live dog and cat purchased or otherwise acquired, a research facility shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

(1) The name and address of the person from whom such animal was purchased or acquired, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The date acquired; and

(3) The description and identification of such animal, including the official tag number or tattoo number, if one is affixed, and any identification number or letter assigned to the animal by such research facility.

(b) In connection with all live dogs and cats transported, sold, or otherwise disposed of by a research facility to another person, such research facility shall keep and maintain, on forms supplied by and in the manner prescribed by the Division:

(1) The name and address of the person to whom the animal is transported, sold, or otherwise disposed of;

(2) The date of such sale or disposition;

(3) The method of transportation; and

(4) The name of the common carrier, or the identification of the means of conveyance, and the name and address

² Such forms will be furnished to the dealer or exhibitor, upon request, by the Administrator.

³ A list of the commercial manufacturers who produce such tags and are known to the Department may be obtained from the Veterinarian in Charge. Any manufacturer who desires to be included in such a list should notify the Director.

of the driver of such means of conveyance.

(c) One copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of dogs or cats sold or otherwise disposed of by a research facility.

§ 2.78 Records, operator of auction sale.

(a) In connection with each animal consigned at an auction sale, for which a commission or fee may or may not be charged, an operator of an auction sale shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

(1) The name and address of the person who consigned such animal to the auction sale and his USDA license number if licensed as a dealer or exhibitor;

(2) The date of consignment;

(3) The description and identification of such animal, including the official tag number or tattoo number, if one is affixed to the animal when consigned;

(4) The auction sales number assigned to the animal; and

(5) The name and address of the buyer and his USDA license number if licensed as a dealer or exhibitor.

(b) A copy of the form required by paragraph (a) of this section shall be given to the consignor and purchaser of each animal sold at the auction sale.

§ 2.79 Records, disposition.

(a) Except as otherwise provided in paragraph (b) of this section, no dealer, exhibitor, operator of an auction sale, or research facility shall, within a period of 2 years from the making thereof, destroy or dispose of, without the consent in writing of the Director, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) The records required to be kept and maintained under this part shall be held for such period in excess of the 2-year period specified in paragraph (a) of this section if necessary to comply with any Federal, State, or local law. When the Director notifies the dealer, exhibitor, operator of an auction sale, or research facility in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, such dealer, exhibitor, operator of an auction sale, or research facility shall hold such records until their disposition is authorized by the Director.

COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

§ 2.100 Compliance with standards.

Each dealer, exhibitor, operator of an auction sale, and research facility shall comply in all respects with the standards set forth in Part 3 of this subchapter setting forth the standards for the humane handling, care, treatment, and transportation of animals. *Provided, however,* That nothing in these rules, regulations, or standards shall affect or interfere with the design, outlines, guidelines, or performances of actual research or experimentation by a re-

search facility as determined by such research facility.

§ 2.101 Holding period.

(a) Any dog or cat acquired by a dealer or exhibitor shall be held by him, under his supervision and control, for a period of not less than 5 business days after acquisition of such animal: *Provided, however,* That (1) dogs or cats which have completed a 5-day holding period may be disposed of by subsequent dealers or exhibitors after a minimum holding period of one calendar day by each such subsequent dealer or exhibitor, excluding time in transit; (2) any dog or cat suffering from disease, emaciation or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section.

(b) During the period in which any dog or cat is being held as required by this section, such dog or cat shall be unloaded from any means of conveyance in which it was received, for feed, water, and rest, and handled, cared for, and treated in accordance with the standards set forth in §§ 3.1 through 3.10 of this subchapter. (For purposes of this section, "business day" shall mean any day of the week during which the dealer or exhibitor normally operates his business. For purposes of this section, "calendar day" shall mean from midnight to midnight (example: A dog or cat purchased on the third day of a month may be disposed of on the fifth day of that month).)

(c) If any dealer or exhibitor obtains the prior approval of the Veterinarian in Charge, he may arrange to have another person hold such animals for the required period provided for in paragraph (a) of this section: *Provided, however,* That such other person agrees in writing to comply with the regulations of this Part 2 and the standards in Part 3 of this subchapter and to allow inspection by a Division representative of his premises: *And provided further,* That the dogs and cats still remain under the control of the dealer: *And provided further,* That a dealer or exhibitor holding a license as set forth in § 2.4 shall not be granted a permit to operate a "holding facility" for another licensed dealer.

MISCELLANEOUS

§ 2.125 Information as to business; furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.

Each dealer, exhibitor, operator of an auction sale, and research facility shall furnish to Division representatives, any information concerning the business of the dealer, exhibitor, operator of an auction sale, or research facility which may be requested by them in connection with the enforcement of the provisions of the Act, the regulations and the standards in this subchapter, within such reasonable time as may be specified in the request for such information.

*An operator of an auction sale is not considered to have acquired a dog or cat which is sold through an auction sale.

§ 2.126 Access and inspection of records and property.

Each dealer, exhibitor, operator of an auction sale, or research facility, shall, upon request, during ordinary business hours, permit Division representatives, or other Federal officers or employees designated by the Secretary to enter his place of business to, examine records required to be kept by the Act and the regulations in this Part, and to make copies of such records, and permit Division representatives to enter his place of business, to inspect such facilities, property, and animals as such representatives consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter. The use of a room, table, or other facilities necessary for the proper examination of such records and inspection of such property or animals shall be extended to such authorized representatives of the Secretary by the dealer, exhibitor, operator of an auction sale, or research facility, his agents and employees.

§ 2.127 Publication of names of persons subject to the provisions of this subpart.

Lists of persons licensed or registered, pursuant to the provisions of this part, shall be published periodically by the Division in the FEDERAL REGISTER. Such lists may also be obtained upon request from the Veterinarian in Charge.

§ 2.128 Inspection for missing animals.

(a) Each dealer, exhibitor, operator of an auction sale, and research facility shall, upon request, during ordinary business hours, permit, under the following conditions, police or law officers of legally constituted law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal regulations) to enter the place of business of such dealer, exhibitor, operator of an auction sale, or research facility to inspect animals and records for the purpose of seeking animals that are missing:

(1) The police or law officer shall furnish to the dealer, exhibitor, operator of an auction sale, or research facility a written description of the missing animal and the name and address of its owner before making such a search.

(2) The police or law officer shall abide by all security measures required by the dealer, exhibitor, operator of an auction sale, or research facility to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

(b) Such inspection for missing animals by law enforcement officers shall not extend to animals that are undergoing actual research or experimentation by a research facility as determined by such research facility.

§ 2.129 Confiscation and destruction of animals.

(a) If an animal being held by a dealer, exhibitor, or operator of an auction sale, or an animal being held by a research facility which is no longer re-

quired by such research facility to carry out the research test or experiment for which it has been utilized, is found by a Division representative to be suffering as a result of the failure of the dealer, exhibitor, operator of an auction sale, or research facility to comply with any provision of the Act or any provision of the regulations or the standards set forth in this subchapter, the Division representative shall make a reasonable effort to notify the dealer, exhibitor, operator of an auction sale, or research facility of the condition of such animal and request that the condition be corrected and that adequate veterinary care be given when necessary to alleviate the animal's suffering, or that the animal be destroyed by euthanasia. In the event that the dealer, exhibitor, operator of an auction sale or research facility refuses to comply with such request, the Division representative may confiscate or destroy such animal by euthanasia if in the opinion of the Director the circumstances warrant such action.

(b) In the event that the Division representative is unable to locate or notify the dealer, exhibitor, operator of an auction sale, or research facility as required in this section, the Division representative shall contact a local police or law officer to accompany him to the premises and shall provide for adequate veterinary care when necessary to alleviate the animal's suffering or, if in the opinion of the Director the condition of the animal cannot be corrected by veterinary care, the Division representative shall confiscate and destroy the animal by euthanasia with such costs as may be incurred to be borne by the dealer, exhibitor, operator of an auction sale, or research facility.

(c) Prior to making any decision regarding the destruction of any animal of a species designated by the Department of the Interior or the International Union for the Conservation of Nature and Natural Resources as an endangered species, the Director shall, when possible in his judgment, consult with representatives of said Department and the International Union for the Conservation of Nature and Natural Resources.

PART 3—STANDARDS

§§ 3.10, 3.34, 3.59, 3.84 [Amended]

2. Sections 3.10, 3.34, 3.59, and 3.84 of Part 3 would be amended by adding a new paragraph (c) to each of said sections to read as follows:

(c) (1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal the highest level of tranquilizing anesthesia or analgesic possible consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through their Animal Care Committee and/or attending veterinarian to research and develop guidelines for the use of tranquilizers, anesthetics, or analgesics appropriate for each species of animal used by that institution.

(3) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

3. A new Subpart E would be added to Part 3 to read as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Warm-blooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, and Nonhuman Primates

FACILITIES AND OPERATING STANDARDS

- Sec.
3.100 Facilities, general.
3.101 Facilities, indoor.
3.102 Facilities, outdoor.
3.103 Space requirements.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.104 Feeding.
3.105 Watering.
3.106 Sanitation.
3.107 Employees.
3.108 Separation.
3.109 Veterinary care.
3.110 Handling.
3.111 Vehicles.
3.112 Primary enclosures used to transport animals.
3.113 Food and water requirements.
3.114 Care in transit.

FACILITIES AND OPERATING STANDARDS

§ 3.100 Facilities, general.

(a) *Structural strength.* The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury, and to contain the animals.

(b) *Water and power.* Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available on the premises.

(c) *Storage.* Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(d) *Waste disposal.* Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards. The disposal facilities and any disposal of animal and food wastes, bedding, dead animals, trash, and debris shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

(e) *Washroom and sinks.* Facilities, such as washrooms, basins, showers, or sinks, shall be provided to maintain cleanliness among animal caretakers.

§ 3.101 Facilities, indoor.

(a) *Ambient temperatures.* Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature, to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

(b) *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air-conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(c) *Lighting.* Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for the species involved. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

(d) *Drainage.* A suitable sanitary method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

§ 3.102 Facilities, outdoor.

(a) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(b) *Shelter from inclement weather.* Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the individual climate.

(c) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

§ 3.103 Space requirements.

Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns.

**ANIMAL HEALTH AND HUSBANDRY
STANDARDS**

§ 3.104 Feeding.

(a) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of the animal. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts or other professionally accepted practices.

(b) Food, and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

§ 3.105 Watering.

If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

§ 3.106 Sanitation.

(a) *Cleaning of enclosures.* Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to prevent disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.

(b) *Sanitation of enclosures.* Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard surface pens or runs shall be sanitized either by washing them with hot water (180° F.) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt, shall be sanitized when necessary as directed by the attending veterinarian.

(c) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

(d) *Pest control.* A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

§ 3.107 Employees.

A sufficient number of adequately trained employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under a supervisor who has a background in animal care.

§ 3.108 Separation.

Animals housed in the same primary enclosures must be compatible. Animals shall not be housed near animals that interfere with their health or cause them discomfort.

§ 3.109 Veterinary care.

(a) Programs of disease prevention and parasite control, euthanasia, and adequate veterinary care shall be established and maintained under the supervision of a veterinarian. The pest control program shall be reviewed by the veterinarian for the safe use of materials and methods. Such veterinarian shall be a graduate of an approved college of veterinary medicine.

(b) Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed.

(c) (1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal the highest level of tranquilizing anesthesia or analgesic possible consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through their Animal Care Committee and/or attending veterinarian to research and develop guidelines for the use of tranquilizers, anesthetics, or analgesics appropriate for each species of animal used by that institution.

(3) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

§ 3.110 Handling.

(a) Handling of animals shall be done as expeditiously as possible in a way so as not to cause undue discomfort, behavioral stress, or physical harm to the animal. Handling shall apply to crating, shifting, transfer, immobilizing, restraining, treating, training, performing, working, as well as other necessary procedures.

(b) Animals to which the public is afforded direct contact shall only be displayed for periods of time and under conditions consistent with the animal's health and not leading to their discomfort.

(c) During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between animal acts and the viewing public to assure safety to both the public and the animals. Performing animals shall be allowed a rest period between performances equal to the time for one performance.

TRANSPORTATION STANDARDS

§ 3.111 Vehicles.

(a) Vehicles used in transporting animals shall be mechanically sound and equipped to provide adequate fresh air, both when moving and stationary, to all animals being transported, without injurious drafts or discomfort.

(b) The animal cargo space shall be so constructed and maintained as to prevent the ingress of the vehicle's exhaust gases.

(c) The interior of the animal cargo space shall be kept physically clean.

(d) The ambient temperature shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature and to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

§ 3.112 Primary enclosures used to transport animals.

(a) Primary enclosures, such as compartments, transport cages or crates, used to transport animals shall be well-constructed, well-ventilated, and designed to protect the health and insure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that (1) each animal in the vehicle has access to sufficient air for normal breathing, (2) the openings of such enclosures are easily accessible at all times for emergency removal of the animal and (3) the animals are afforded adequate protection from the elements.

(b) Animals transported in the same primary enclosure shall be compatible. Socially dependent individuals (e.g., siblings, dam and young cagemates) must be allowed visual and olfactory contact.

(c) Primary enclosures used to transport animals shall be large enough to insure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments. *Provided, however,* That certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals or their handlers.

(d) Animals shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta or other wastes from entering lower enclosures.

(e) Primary enclosures used to transport animals shall be cleaned and sanitized before and after each shipment. All bedding in the vehicle shall be clean at the beginning of each trip.

§ 3.113 Food and water requirements.

(a) Potable water shall be provided to each animal at least once in each 12-hour period. Those animals which, by common accepted practice, require watering more frequently shall be so provided.

(b) Each animal shall be fed at least once in each 24-hour period. Those animals which, by common accepted practice, require feeding more frequently shall be so fed.

(c) A sufficient quantity of food and water shall accompany the animal to provide food and water for such animal for a period of at least 24 hours.

§ 3.114 Care in transit.

(a) It shall be the responsibility of the attendant or driver to inspect the ani-

mals frequently enough to assure the health and comfort of the animals.

(b) In the event of a breakdown or delay of the vehicle, it is the responsibility of the animal caretaker or vehicle operator to assure that animals get adequate ventilation and protection from fumes, vehicle exhaust, extremes in temperature, and that the animals are not subjected to undue discomfort.

(c) In an emergency concerning the health and welfare of the animals, adequate veterinary care shall be provided without delay.

Any person who wishes to submit written data, views, or arguments concerning this proposal may do so by filing them with the Director, Animal Health Divi-

sion, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, within 45 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1-27(b)).

Done at Washington, D.C., this 19th day of October 1971.

F. J. MULHERN
Acting Administrator,
Agricultural Research Service.

[FR Doc 71-15425 Filed 10-21-71; 3:45 am]